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REGULATORY AUTH.

BellSouth Telecommunications, Inc.

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Guy M. Hicks

General Counsel

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April 22, 1999

OFFICE OF THE  
EXECUTIVE SECRETARY

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

Re: Approval of the Amendment to the Interconnection Agreement Negotiated by  
BellSouth Telecommunications, Inc. and Hyperion of Tennessee, L.P. Pursuant  
to Sections 251 and 252 of the Telecommunications Act of 1996.  
Docket No. ~~97-00983~~

Dear Mr. Waddell:

99-00311

Pursuant to Section 252(e) of the Telecommunications Act of 1996, Hyperion of Tennessee, L.P. and BellSouth Telecommunications, Inc. are hereby submitting to the Tennessee Regulatory Authority the original and thirteen copies of the attached Petition for Approval of the Amendment to the Interconnection Agreement dated April 1, 1997. The Amendment provides for physical collocation arrangements.

Sincerely yours,

HYPERION OF TENNESSEE, L.P.

BELLSOUTH TELECOMMUNICATIONS,  
INC.

BY: \_\_\_\_\_

Eric J. Branfman  
Tamar E. Finn  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
202/424-7500  
Attorney for Hyperion  
of Tennessee, LP

BY: \_\_\_\_\_

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INC.

BY:

A handwritten signature in cursive script, appearing to read 'Eric J. Branfman'.

Eric J. Branfman  
Tamar E. Finn  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
202/424-7500  
Attorney for Hyperion  
of Tennessee, LP

BY:

Guy M. Hicks  
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Nashville, TN 37201-3300  
615/214-6301  
Attorney for BellSouth

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee

In re: *Approval of the Amendment to the Interconnection Agreement Negotiated by BellSouth Telecommunications, Inc. and Hyperion of Tennessee, L.P. Pursuant to Sections 251 and 252 of the Telecommunications Act of 1996*

Docket No. ~~97-00983~~

99-00311

**PETITION FOR APPROVAL OF THE**  
**AMENDMENT TO THE INTERCONNECTION AGREEMENT**  
**NEGOTIATED BETWEEN BELL SOUTH TELECOMMUNICATIONS, INC.**  
**AND HYPERION OF TENNESSEE, L.P.**  
**PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996**

COME NOW, Hyperion of Tennessee, L.P. ("Hyperion") and BellSouth Telecommunications, Inc., ("BellSouth"), and file this request for approval of the Amendment to the Interconnection Agreement (the "Amendment") negotiated between the two companies pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, (the "Act"). In support of their request, Hyperion and BellSouth state the following:

1. Hyperion and BellSouth have successfully negotiated an agreement for interconnection of their networks, the unbundling of specific network elements offered by BellSouth and the resale of BellSouth's telecommunications services to Hyperion. The Interconnection Agreement was approved by the Tennessee Regulatory Authority ("TRA") on July 15, 1997.

2. The parties have negotiated an Amendment to the Agreement providing for physical collocation arrangements. A copy of the Amendment is attached hereto and incorporated herein by reference.

3. Pursuant to Section 252(e) of the Telecommunications Act of 1996, Hyperion and BellSouth are submitting their Amendment to the TRA for its consideration and approval.

4. In accordance with Section 252(e) of the Act, the TRA is charged with approving or rejecting the negotiated Amendment between BellSouth and Hyperion within 90 days of its submission. The Act provides that the TRA may only reject such an agreement if it finds that the agreement or any portion of the agreement discriminates against a telecommunications carrier not a party to the agreement or the implementation of the agreement or any portion of the agreement is not consistent with the public interest, convenience and necessity.

5. Hyperion and BellSouth aver that the Amendment is consistent with the standards for approval.

6. Pursuant to Section 252(i) of the Act, BellSouth shall make the Agreement available upon the same terms and conditions contained therein.

Hyperion and BellSouth respectfully request that the TRA approve the Amendment negotiated between the parties.

This 22nd day of April, 1999.

Respectfully submitted,

HYPERION OF TENNESSEE, L.P.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: \_\_\_\_\_

Eric J. Branfman  
Tamar E. Finn  
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Attorney for BellSouth

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This 22nd day of April, 1999.

Respectfully submitted,

HYPERION OF TENNESSEE, L.P.

BELLSOUTH TELECOMMUNICATIONS, INC.

By: Tamar E. Finn

Eric J. Branfinen  
Tamar E. Finn  
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By: \_\_\_\_\_

Guy M. Hicks  
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615/214-6315  
Attorney for BellSouth

**SECOND AMENDMENT  
TO  
INTERCONNECTION AGREEMENT BETWEEN HYPERION OF TENNESSEE, LP  
AND  
BELL SOUTH TELECOMMUNICATIONS, INC. DATED APRIL 1, 1997**

Pursuant to this Amendment (the "Amendment") Hyperion of Tennessee, L.P. ("Hyperion") and BellSouth Telecommunications, Inc. ("BellSouth"), hereinafter referred to collectively as the "Parties," hereby agree to amend the Interconnection Agreement dated April 1, 1997 ("Interconnection Agreement").

NOW THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Hyperion and BellSouth hereby covenant and agree as follows:

1. Attachment C-13 of the Interconnection Agreement is hereby deleted in its entirety and shall be replaced with Exhibit A of this Amendment. This Exhibit contains the terms and conditions applicable to Physical Collocation arrangements.
2. All of the other provisions of the Interconnection Agreement, dated April 1, 1997, shall remain unchanged and in full force and effect.
3. Either of the Parties is authorized to submit this Amendment to the Tennessee Public Service Commission for approval subject to Section 252(e) of the Federal Telecommunications Act of 1996.

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below.

**Hyperion of Tennessee, L.P.**

By: 

Name: RANDOLPH S. FOWLER

Title: SENIOR VICE PRESIDENT

Date: 2/13/99

**BellSouth Telecommunications, Inc.**

By: 

Name: Jerry D. Hendrix

Title: Director-Interconnection Service-Pricing

Date: 2/19/99

## **BELLSOUTH PHYSICAL COLLOCATION**

### **1. SCOPE OF ATTACHMENT**

1.1 Right to occupy. BellSouth hereby grants to Hyperion a right to occupy that certain enclosed area designated by BellSouth within a BellSouth Central Office, of a size and dimension which is specified by Hyperion and agreed to by BellSouth (hereinafter "Collocation Space"). BellSouth will design and construct at Hyperion's expense and agreed to specifications, a wall or other delineation to establish a clear division between the Collocation Space and other areas of the Central Office dedicated to BellSouth's use.

1.2 Use of space. Hyperion shall use the Collocation Space for the purposes of installing, maintaining and operating Hyperion's equipment (to include testing and monitoring equipment) which is used to interconnect with telecommunications services and facilities provided by BellSouth. Pursuant to Article III, following, Hyperion may place Hyperion-owned fiber entrance facilities to the Collocation Space, in which case the arrangement is designated "Expanded Interconnection." Placement of equipment in the Collocation Space without the use of Hyperion-owned entrance facilities is designated "Service Interconnection." In addition to, and not in lieu of, interconnection to BellSouth services and facilities, Hyperion may connect to other CLEC within the designated BellSouth Central Office (including to its own virtual or physical collocated arrangements) through facilities designated by Hyperion. The Collocation Space may be used for no other purposes except as specifically described herein or authorized in writing by BellSouth.

1.3 No right to sublease. Hyperion may not provide or make available space within the collocation space to any third party. Any violation of this provision shall be deemed a material breach of this Agreement.

1.4 Rates and charges. Hyperion agrees to pay the rates and charges identified at Exhibit A attached hereto.

1.5 Location of Arrangement. A Collocation Space will be provided to Hyperion at each Central Office identified at Exhibit B attached hereto, which Exhibit shall be updated from time to time as additional Central Offices are made subject to the terms of this Agreement.

### **2. OCCUPANCY**

2.1 Commencement Date. The "Commencement Date" shall be the day Hyperion's equipment becomes operational as described in Article 2.2, following.

2.2 Occupancy. BellSouth will notify Hyperion in writing that the Collocation Space is ready for occupancy. Hyperion must place operational telecommunications equipment in the Collocation Space and connect with BellSouth's network within one hundred eighty (180) days after receipt of such notice. Hyperion must notify BellSouth in writing that collocation equipment installation is complete and is operational with BellSouth's network. If Hyperion fails to place operational telecommunications equipment in the Collocation Space within 180 days and such failure continues for a period of thirty (30) days after receipt of written notice from BellSouth, then and in that event Hyperion's right to occupy the Collocation Space terminates and BellSouth shall have no further obligations to Hyperion with respect to said Collocation Space. Termination of Hyperion's rights to the Collocation Space pursuant to this paragraph shall not operate to release Hyperion from its obligation to reimburse BellSouth for all costs reasonably incurred by BellSouth in preparing the Collocation Space, but rather such obligation shall survive this Agreement. For purposes of this paragraph, Hyperion's telecommunications equipment will be deemed operational when cross-connected to BellSouth's network for the purpose of service provision.

2.3 Termination. Hyperion may terminate occupancy in a particular Collocation Space upon thirty (30) days prior written notice to BellSouth. Upon termination of such occupancy, Hyperion at its expense shall remove its equipment and other property from the Collocation Space. Hyperion shall have thirty (30) days from the termination date to complete such removal; provided, however, that Hyperion shall continue payment of monthly fees to BellSouth until such date as Hyperion has fully vacated the Collocation Space. Should Hyperion fail to vacate the Collocation Space within thirty (30) days from the termination date, BellSouth shall have the right to remove the equipment and other property of Hyperion at Hyperion's expense and with no liability for damage or injury to Hyperion's property unless caused by the gross negligence or intentional misconduct of BellSouth.

### **3. USE OF COLLOCATION SPACE**

3.1 Equipment Type. BellSouth permits the placement of equipment in the Physical Collocation arrangement where such equipment is utilized for the purposes of providing telecommunication services through interconnection or through access to unbundled network elements. Where that equipment can also provide information services, the telecommunications carrier may offer information services through the same arrangement, so long as it is also offering telecommunications services through the same arrangement. BellSouth is not required to provide for collocation of equipment that can only provide enhanced services or information services. In addition, BellSouth will not permit collocation of equipment that will be used only to provide enhanced services or information services. Further, BellSouth will not accept collocation requests from entities that are not telecommunications carriers.

3.1.1 Such equipment must at a minimum comply with the BellCore Network Equipment Building Systems (NEBS) General Equipment Requirements and National Electric Code standards. For purposes of



this paragraph, enhanced services and information services are not considered to be telecommunications services.

3.1.2 Hyperion shall not use the Collocation Space for marketing purposes. Hyperion shall place no signs or marking of any kind (except for a plaque or other identification affixed to Hyperion's equipment and reasonably necessary to identify Hyperion's equipment, and which shall include a list of emergency contacts with telephone numbers), in the area surrounding the Collocation Space or on the grounds of the Central Office housing the Collocation Space.

3.2 Entrance Facilities. Hyperion may elect to place Hyperion-owned or Hyperion-leased entrance facilities into the Collocation Space. BellSouth will designate the point of interconnection in proximity to the central office building housing the Collocation Space, such as an entrance manhole or a cable vault. Hyperion will provide and place cable at the point of interconnection of sufficient length to be pulled through conduit and into the splice location.. Hyperion will provide a sufficient length of fire retardant riser cable, to which the entrance cable will be spliced, which will extend from the splice location to the Hyperion's equipment in the Collocation Space. Hyperion must contact BellSouth for instructions prior to placing the entrance facility cable in the manhole. Hyperion is responsible for maintenance of the entrance facilities.

3.2.1 Dual entrance will be permitted where capacity exists. Upon receipt of a request for collocation under this Agreement, BellSouth shall provide Hyperion with information regarding BellSouth's capacity to accommodate dual entrance facilities. If conduit in the serving manhole(s) is available and is not reserved for another purpose for utilization within 12 months of the receipt of an application for collocation, BellSouth will make the requested conduit space available for installing a second entrance facility to Hyperion's arrangement. The location of the serving manhole(s) will be determined at the sole discretion of BellSouth. Where dual entrance is not available due to lack of capacity, BellSouth will so state in the Application response.

3.2.2 Hyperion may utilize spare capacity on an existing Hyperion entrance facility for the purpose of providing an entrance facility to another Hyperion collocation arrangement within the same BellSouth Central Office.

3.3 Splicing in the Entrance Manhole. Although not generally permitted, should Hyperion request a splice to occur in the entrance manhole(s), BellSouth, at its sole discretion, may grant such a request, provided that BellSouth will not unreasonably withhold approval of requests to make such a splice. When the request for a splice is granted to Hyperion by BellSouth, Hyperion shall ensure its employees or agents entering and/or performing work in the entrance manhole(s) are trained and comply with BellSouth procedures and OSHA requirements regarding access to manholes and that BellSouth personnel are notified and present for all entrances and work performed in the entrance manhole(s). Manholes covers shall be properly closed and secured at the conclusion of entry and/or work. Advance notification to BellSouth shall occur at a

minimum of 48 hours prior to desired entry for normal work activities and at a minimum of 2 hours prior to desired entry in an out of service condition.

3.4 Demarcation Point. A point-of-termination bay(s) will designate the point(s) of interconnection between Hyperion's equipment and/or network and BellSouth's network. Each party will be responsible for maintenance and operation of all equipment/facilities on its side of the demarcation point. Hyperion may, at its option, provide its own point-of-termination bay(s) in accordance with BellSouth's guidelines and specifications, which BellSouth will provide upon request. Hyperion or its agent may perform all required maintenance to equipment/facilities on its side of the demarcation point, pursuant to subsection 3.5, following, and may self-provision cross-connects that may be required within the collocation space to activate service requests. With the exception of cross-connects provisioned as set forth in this subsection, a certified vendor is required to perform all other equipment installation or provisioning activities within the collocation space, pursuant to Section 4.3.

3.5 Hyperion's Equipment and Facilities. Hyperion is solely responsible for the design, engineering, testing, performance, monitoring, maintenance, and repair of the equipment and facilities used by Hyperion in the Collocation Space. Without limitation of the foregoing provisions, Hyperion will be responsible for servicing, supplying, repairing, installing and maintaining the following: (1) cable(s); (2) equipment; (3) point-of-termination cross-connects; (4) point of termination maintenance, including replacement fuses and circuit breaker restoration, if not performed by BellSouth; and (5) connection cable(s) and associated equipment which may be required within the Collocation Space to the points of interconnection.

3.6 Easement Space. From time to time BellSouth may require access to the Collocation Space. BellSouth retains the right to access such space for the purpose of making equipment and building modifications (e.g., running, altering or removing racking, ducts, electrical wiring, HVAC, and cables). BellSouth will give reasonable notice to Hyperion when access to the Collocation Space is required. Hyperion may elect to be present whenever BellSouth performs work in the Collocation Space. The Parties agree that Hyperion will not bear any of the expense associated with this work.

3.7 - Access and Administration. Hyperion shall have access to the Collocation Space twenty-four (24) hours a day, seven (7) days a week. A security escort will be required at Central Offices where separate, secured ingress and egress are not available and access would require Hyperion to traverse restricted areas. All employees, agents and contractors of Hyperion having access to the Collocation Space shall comply with BellSouth's policies and practices pertaining to fire, safety and security, and each such employee, agent or contractor shall display an identification badge issued by Hyperion or certified vendor which contains a current photo, the individual's name and company name/logo. Hyperion agrees to comply with all laws, ordinances and regulations affecting the use of the Collocation Space. For central offices in which an escort is required, BellSouth will establish procedures to provide expedited access in the event of an emergency. Such procedures shall, at a minimum, assign Hyperion's request for access a priority level at parity with that which BellSouth assigns itself or any other

telecommunications service provider for similar central office emergencies. Upon expiration of this Agreement, Hyperion shall surrender the Collocation Space to BellSouth in the same condition as when first occupied by the Hyperion except for ordinary wear and tear.

3.8 Interference or Impairment. Notwithstanding any other provisions of this Agreement, equipment and facilities placed in the Collocation Space shall not interfere with or impair service provided by BellSouth or by any other CLEC located in the Central Office; shall not endanger or damage the facilities of BellSouth or of any other CLEC, the Collocation Space, or the Central Office; shall not compromise the privacy of any communications carried in, from, or through the Central Office; and shall not create an unreasonable risk of injury or death to any individual or to the public. If BellSouth reasonably determines that any equipment or facilities of Hyperion violate the provisions of this paragraph, BellSouth shall give written notice to Hyperion, which notice shall direct Hyperion to cure the violation within forty-eight (48) hours of Hyperion's actual receipt of written notice or, at a minimum, to commence curative measures within 24 hours and to exercise reasonable diligence to complete such measures as soon as possible thereafter. After receipt of the notice, the parties agree to consult immediately and, if necessary, to inspect the arrangement. If Hyperion fails to take curative action within 48 hours or if the violation is of a character which poses an immediate and substantial threat of damage to property, injury or death to any person, or interference/impairment of the services provided by BellSouth or any other CLEC, then and only in that event BellSouth may take such action as it deems appropriate to correct the violation, including without limitation the interruption of electrical power to Hyperion's equipment. BellSouth will endeavor, but is not required, to provide notice to Hyperion prior to taking such action and shall have no liability to Hyperion for any damages arising from such action, except to the extent that such action by BellSouth constitutes willful misconduct.

3.9 Personalty and its Removal. Subject to requirements of this Agreement, Hyperion may place or install in or on the Collocation Space such facilities and equipment, including storage for and spare equipment, as it deems desirable for the conduct of business; Provided that such equipment is telecommunications equipment, does not violate floor loading requirements, imposes or could impose or contains or could contain environmental conditions or hazards. Personal property, facilities and equipment placed by Hyperion in the Collocation Space shall not become a part of the Collocation Space, even if nailed, screwed or otherwise fastened to the Collocation Space, but shall retain their status as personalty and may be removed by Hyperion at any time. Any damage caused to the Collocation Space by Hyperion's employees, agents or representatives during the removal of such property shall be promptly repaired by Hyperion at its expense.

3.10 Alterations. In no case shall Hyperion or any person acting on behalf of Hyperion make any rearrangement, modification, improvement, addition, repair, or other alteration to the Collocation Space or the BellSouth Central Office without the written consent of BellSouth, which consent shall not be unreasonably withheld. The cost of any such specialized alterations shall be paid by Hyperion.

#### 4. ORDERING AND PREPARATION OF COLLOCATION SPACE

4.1 Application for Space. Hyperion shall submit to BellSouth a complete and accurate Application and Inquiry document, together with payment of the Application Fee as stated in Exhibit A. The Application shall contain a detailed description and schematic drawing of the equipment to be placed in Hyperion's Collocation Space(s) and an estimate of the amount of square footage required.

4.1.1 Application Response. BellSouth will respond to up to three (3) applications for space within the same state submitted within a fifteen (15) business day interval within thirty (30) business days of receipt of the complete application. When Hyperion submits more than three (3) applications in the same state within 15 business days and BellSouth is processing multiple applications from other Hyperion, BellSouth and Hyperion will negotiate in good faith a prioritization of the requests and a reasonable response time frame. All negotiations shall consider the total volume from all requests from telecommunications companies for collocation. The Application Response will detail whether the amount of space requested is available or if the amount of space requested is not available, the amount of space that is available. The response will also include the configuration of the space. When BellSouth's response includes an amount of space less than that requested by Hyperion or differently configured, Hyperion must amend its application to reflect the actual space available prior to submitting a Bona Fide Firm Order.

4.2 Bona Fide Firm Order. Hyperion shall indicate its intent to proceed with equipment installation in a BellSouth Central Office by submitting a Bona Fide Firm Order to BellSouth. A Bona Fide Firm Order requires Hyperion to complete the Application/Inquiry process described in Subsection 4.1, preceding, submit an updated Application document that is complete and accurate based on the outcome of the Application/Inquiry process, and pay all applicable fees referenced in Article 5, following. The Bona Fide Firm Order must be received by BellSouth no later than thirty (30) days after BellSouth's response to Hyperion's Application/Inquiry.

4.2.1 BellSouth will establish a firm order date, per request, based upon the date BellSouth is in receipt of a complete and accurate firm order. BellSouth will acknowledge the receipt of Hyperion's Bona Fide Firm Order within 15 days of receipt indicating that the Bona Fide Firm Order has been received and that the order is accurate and complete or if the order is not accurate and complete, details as to the necessary information needed to cause the order to be accurate and complete. A BellSouth response to a complete and accurate firm order will include a Firm Order Confirmation containing the firm order date.

4.2.2 BellSouth will permit one site visit after receipt of the Bona Fide Firm Order. Security escort charges will be assessed for the site visit.

4.2.3 Space preparation for the Collocation Space will not begin until BellSouth receives the Bona Fide Firm Order and all applicable fees.

4.3 Construction and Provisioning Interval. BellSouth will negotiate construction and provisioning intervals per request on an individual case basis. Excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will use best efforts to complete construction for collocation arrangements under ordinary conditions as soon as possible and within a maximum of 120 days from receipt of a complete and accurate Bona Fide Firm Order where the infrastructure rearrangement or accommodations allow. Ordinary conditions are defined as space available with only minor changes to support systems required, such as but not limited to, HVAC, cabling and the power plant(s). Excluding the time interval required to secure the appropriate government licenses and permits, BellSouth will use best efforts to complete construction of all other collocation space ("extraordinary conditions") within 180 days of the receipt of a complete and accurate Bona Fide Firm Order. Extraordinary conditions are defined to include but are not limited to multiple orders in excess of five (5) from one customer per state; major BellSouth equipment rearrangement; power plant addition or upgrade; major mechanical addition or upgrade; major upgrade for ADA compliance; mainframe addition; environmental hazard or hazardous materials abatement.

4.3.1 Joint Planning Meeting. A joint planning meeting between BellSouth and Hyperion will commence within a maximum of 20 days from BellSouth's receipt of a complete and accurate firm order and the payment of agreed upon fees. At such meeting, the parties will agree to the preliminary design of the collocation space and the equipment configuration requirements as designated by Hyperion on its Bona Fide Firm Order. In the event Hyperion materially modifies its request as a result of the coordination meeting outcome, such modifications must be submitted to BellSouth in writing and a firm order date reestablished. The Collocation Space Completion time period will be provided to Hyperion during the joint planning meeting or as soon as possible thereafter. BellSouth will complete all design work following the joint planning meeting. If BellSouth needs to reevaluate Hyperion's application as a result of changes requested by Hyperion to Hyperion's original application, then BellSouth will charge Hyperion a fee based upon the additional engineering hours required to do the reassessment. Major changes such as requesting additional space or adding additional equipment may require Hyperion to resubmit the application with an application fee.

4.3.2 Permits. BellSouth or its agents will diligently pursue filing for the required permits within 7 business days of the completion of finalized construction designs and specifications.

4.4 Use of Certified Vendor. Hyperion shall select an equipment installation vendor which has been approved as a BellSouth Certified Vendor to perform all engineering and installation work required in the Collocation Space. BellSouth shall provide Hyperion with a list of Certified Vendors upon request. The Certified Vendor shall be responsible for installing Hyperion's equipment and components, extending power cabling to the BellSouth power distribution frame, performing operational tests

after installation is complete, and notifying BellSouth's equipment engineers and Hyperion upon successful completion of installation. The Certified Vendor shall bill Hyperion directly for all work performed for Hyperion pursuant to this Agreement and BellSouth shall have no liability for nor responsibility to pay such charges imposed by the Certified Vendor. BellSouth shall consider certifying Hyperion or any vendor proposed by Hyperion.

4.5 Alarm and monitoring. BellSouth shall place environmental alarms in the Central Office for the protection of BellSouth equipment and facilities. Hyperion shall be responsible for placement, monitoring and removal of environmental and equipment alarms used to service Hyperion's Collocation Space. Upon request, BellSouth will provide Hyperion with applicable tariffed service(s) to facilitate remote monitoring of collocated equipment by Hyperion. Both parties shall use best efforts to notify the other of any verified environmental hazard known to that party. The parties agree to utilize and adhere to the Environmental Hazard Guidelines identified as Exhibit C attached hereto.

4.6 Basic Telephone Service. Upon request of Hyperion, BellSouth will provide basic telephone service to the Collocation Space under the rates, terms and conditions of the current tariff offering for the service requested.

4.7 Space Preparation. BellSouth shall pro rate the costs of any renovation or upgrade to Central Office space or support mechanisms which is required to accommodate physical collocation. Hyperion's pro rated share will be calculated by multiplying such cost by a percentage equal to the amount of square footage occupied by Hyperion divided by the total Central Office square footage receiving renovation or upgrade. For this section, support mechanisms provided by BellSouth may include, but not be limited to heating/ventilation/air conditioning (HVAC) equipment, HVAC duct work, cable support structure, fire wall(s), mechanical upgrade, asbestos abatement, ground plane addition, or separate ingress/egress construction. Such renovation or upgrade will be evaluated and the charges assessed on a per Central Office basis. BellSouth will reimburse Hyperion in an amount equal to Hyperion reasonable, demonstrative and mitigated expenditures incurred as a direct result of delays to the completion and turnover dates caused by BellSouth.

4.8 Space Enclosure. Upon request of Hyperion, BellSouth shall construct an equipment arrangement enclosure of a size and dimension jointly agreed upon by the Parties. Hyperion may request enclosed floor space in increments of fifty (50) square feet, with a minimum of one hundred (100) square feet. Hyperion may, at its option, arrange with a BellSouth certified contractor to construct the space enclosure in accordance with BellSouth's guidelines and specifications. Such contractor shall directly bill Hyperion for activities associated with the space enclosure construction. Hyperion must provide the local BellSouth building contact with a card, key or other access device used to enter the locked enclosure. Except in case of emergency, BellSouth will not access Hyperion's locked enclosure prior to notifying Hyperion .

4.9 Virtual Collocation Transition. To the extent space becomes available, Hyperion may transition its virtual collocation arrangements to physical collocation arrangements and pay the appropriate non-recurring fees for physical collocation and for the rearrangement or reconfiguration of services terminated in the virtual collocation arrangement. Hyperion must arrange with a BellSouth certified vendor for the relocation of equipment from its virtual collocation space to its physical collocation space and will bear the cost of such relocation.

4.10 Cancellation. If Hyperion cancels its order for the Collocation Space(s), Hyperion will reimburse BellSouth for any expenses incurred up to the date that written notice of the cancellation is received. In no event will the level of reimbursement under this paragraph exceed the maximum amount Hyperion would have otherwise paid for work undertaken by BellSouth if no cancellation of the order had occurred.

4.11 Licenses. Hyperion, at its own expense, will be solely responsible for obtaining from governmental authorities, and any other appropriate agency, entity, or person, all rights and privileges necessary or required to operate as a provider of telecommunications services to the public.

## **5. RATES AND CHARGES**

5.1 Non-recurring Fees. In addition to the Application Fee referenced in Section 4, preceding, Hyperion shall remit payment of a Cable Installation Fee, Space Construction Fee, as applicable, and one-half (1/2) of the estimated Space Preparation Fee coincident with submission of a Bona Fide Firm Order. The outstanding balance of the actual Space Preparation Fee shall be due thirty (30) days following Hyperion's receipt of a bill or invoice from BellSouth. Once the installation of the initial equipment arrangement is complete, a subsequent application fee may apply (as described in subsection 5.5) when Hyperion requests a modification to the arrangement.

5.2 Documentation. BellSouth shall provide documentation to establish the actual Space Preparation Fee. The Space Preparation Fee will be pro rated as prescribed in Section 4, preceding.

5.3 Cable Installation. Cable Installation Fee(s) are assessed per entrance fiber placed. No Cable Installation Fee is required for Service Interconnection.

5.4 Space Enclosure Fees. The Space Enclosure Construction Fee will be assessed for the materials and installation cost of the equipment enclosure. Where local building codes require enclosure specifications more stringent than BellSouth's standard enclosure specifications, the additional costs will be included in the space preparation charge. In such cases, BellSouth shall provide documentation to establish these costs separately from Hyperion's pro-rated share of renovation or upgrade costs.

5.5 Additional Engineering. BellSouth's engineering and other labor time associated with establishing the Physical Collocation Arrangement will be assessed as

Additional Engineering charges, under provisions in BellSouth's F.C.C. Number 1 Tariff, Sections 13.1 and 13.2. An estimate of the Additional Engineering charges will be provided by BellSouth to Hyperion in the Application Response.

5.5 Subsequent Application Fee. BellSouth requires the submission of additional documentation when Hyperion desires to modify the use of the collocation space. Hyperion shall complete an additional application form including all information regarding the modification to the collocation arrangement. BellSouth shall determine what modifications to the premises are required to accommodate the change requested by Hyperion in the application. Such modifications to the premises may include but are not limited to, floor loading changes, changes necessary to meet HVAC requirements and changes to power plant requirements. The fee paid by Hyperion for its request to modify the use of the collocation space shall be dependent upon the modification requested. Where the subsequent application does not require provisioning or construction work by BellSouth, no subsequent application fee will be assessed. The fee for an application where the modification requested has limited effect, e.g. does not require capital expenditure by BellSouth, shall not exceed \$1600.00. All other subsequent application fees shall be assessed at \$3850.00.

5.6 Floor Space. The floor space charge includes reasonable charges for lighting, heat, air conditioning, ventilation and other allocated expenses associated with maintenance of the Central Office but does not include amperage necessary to power Hyperion's equipment. When the Collocation Space is enclosed by walls or other divider, Hyperion shall pay floor space charges based upon the number of square feet so enclosed. When the Collocation Space is not enclosed, Hyperion shall pay floor space charges based upon the number of square feet contained in a shadow print of Hyperion's equipment racks and POT bay, plus a factor of 2.50 multiplied by the shadow print, which represents Hyperion's share of wiring and provisioning aisle space for provisioning and maintenance activities. Floor space charges are due beginning with the date on which BellSouth releases the Collocation Space for occupancy or on the date Hyperion first occupies the Collocation Space, whichever is sooner.

5.7 Power. (1) Charges for -48V DC power will be assessed per ampere per month based upon the certified vendor engineered and installed power feed fused ampere capacity. Rates include redundant feeder fuse positions (A&B) and cable rack to Hyperion's equipment or space enclosure. Fuses and power feed cables (A&B) must be engineered (sized), furnished and installed by Hyperion's certified vendor. Hyperion's certified vendor must also provide a copy of the engineering power specification prior to the Commencement Date. In the event BellSouth shall be required to construct additional DC power plant or upgrade the existing DC power plant in a central office as a result of Hyperion's request to collocate in that central office ("Power Plant Construction"), Hyperion shall pay its pro-rata share of costs associated with the Power Plant Construction. The determination of whether Power Plant Construction is necessary shall be within BellSouth's sole, but reasonable, discretion. BellSouth shall comply with all BellCore and ANSI Standards regarding power cabling, including BellCore Network Equipment Building System (NEBS) Standard TR-EOP-000063. BellSouth will notify Hyperion of the need for the Power Plant Construction and will



estimate the costs associated with the Power Plant Construction if BellSouth were to perform the Power Plant Construction. The costs of power plant construction shall be pro-rated and shared among all who benefit from that construction. Hyperion shall pay BellSouth one-half of its prorata share of the estimated Power Plant Construction costs prior to commencement of the work. Hyperion shall pay BellSouth the balance due (actual cost less one-half of the estimated cost) within thirty (30) days of completion of the Power Plant Construction. Hyperion has the option to perform the Power Plant Construction itself; provided, however, that such work shall be performed by a BellSouth certified contractor and such contractor shall comply with BellSouth's guidelines and specifications. Where the Power Plant Construction results in construction of a new power plant room, upon termination of this Agreement Hyperion shall have the right to remove its equipment from the power plant room, but shall otherwise leave the room intact. Where the Power Plant Construction results in an upgrade to BellSouth's existing power plant, upon termination of this Agreement, such upgrades shall become the property of BellSouth.

5.8 Security Escort. A security escort will be required whenever Hyperion or its approved agent desires access to the entrance manhole or must traverse a restricted area within BellSouth's central office. Rates for a BellSouth security escort are assessed in one-half (1/2) hour increments according to the schedule appended hereto as Exhibit A.

5.9 Other. Payment of all other charges under this Agreement shall be due thirty (30) days after receipt of the bill (payment due date). Hyperion will pay a late payment charge of one and one-half percent (1-1/2%) assessed monthly on any balance which remains unpaid after the payment due date.

## **6. INSURANCE**

6.1 Hyperion shall, at its sole cost and expense, procure, maintain, and keep in force insurance as specified in this Article VI and underwritten by insurance companies licensed to do business in the states contained in Exhibit B attached hereto and having a BEST Insurance Rating of B ++ X (B ++ ten).

6.2 Hyperion shall maintain the following specific coverage:

6.2.1 Commercial General Liability coverage in the amount of ten million dollars (\$10,000,000.00) or a combination of Commercial General Liability and Excess/Umbrella coverage totaling not less than ten million dollars (\$10,000,000.00). BellSouth shall be named as an ADDITIONAL INSURED on ALL applicable policies as specified herein.

6.2.2 Statutory Workers Compensation coverage and Employers Liability coverage in the amount of one hundred thousand dollars (\$100,000.00) each

accident, one hundred thousand dollars (\$100,000.00) each employee by disease, and five hundred thousand dollars (\$500,000.00) policy limit by disease.

6.2.3 Hyperion may elect to purchase business interruption and contingent business interruption insurance, having been advised that BellSouth assumes no liability for loss of profit or revenues should an interruption of service occur.

6.3 The limits set forth in subsection 6.2 above may be increased by BellSouth from time to time during the term of this Agreement upon thirty (30) days notice to Hyperion to at least such minimum limits as shall then be customary with respect to comparable occupancy of BellSouth structures.

6.4 All policies purchased by Hyperion shall be deemed to be primary and not contributing to or in excess of any similar coverage purchased by BellSouth. All insurance must be in effect on or before the date equipment is delivered to BellSouth's Central Office and shall remain in effect for the term of this Agreement or until all Hyperion's property has been removed from BellSouth's Central Office, whichever period is longer. If Hyperion fails to maintain required coverage, BellSouth may pay the premiums thereon and seek reimbursement of same from Hyperion.

6.5 Hyperion shall submit certificates of insurance reflecting the coverage required pursuant to this Section a minimum of ten (10) days prior to the commencement of any work in the Collocation Space. Failure to meet this interval may result in construction and equipment installation delays. Hyperion shall arrange for BellSouth to receive thirty (30) days advance notice of cancellation from Hyperion's insurance company. Hyperion shall forward a certificate of insurance and notice of cancellation to BellSouth at the following address:

BellSouth Telecommunications, Inc.  
Attn.: Risk Management Coordinator  
3535 Colonnade Parkway, S9A1  
Birmingham, Alabama 35243

6.6 Hyperion must conform to recommendations made by BellSouth's fire insurance company to the extent BellSouth has agreed to, or shall hereafter agree to, such recommendations.

6.7 Failure to comply with the provisions of this Section will be deemed a material breach of this Agreement.

## **7. MECHANICS LIENS**

7.1 If any mechanics lien or other liens shall be filed against property of either party (BellSouth or Hyperion), or any improvement thereon by reason of or arising out of any labor or materials furnished or alleged to have been furnished or to be furnished to or for the other party or by reason of any changes, or additions to said property made at

the request or under the direction of the other party, the other party directing or requesting those changes shall, within thirty (30) days after receipt of written notice from the party against whose property said lien has been filed, either pay such lien or cause the same to be bonded off the affected property in the manner provided by law. The party causing said lien to be placed against the property of the other shall also defend, at its sole cost and expense, on behalf of the other, any action, suit or proceeding which may be brought for the enforcement of such liens and shall pay any damage and discharge any judgment entered thereon.

## **8. INSPECTIONS**

8.1 BellSouth shall conduct an inspection of Hyperion's equipment and facilities in the Collocation Space(s) prior to the activation of facilities between Hyperion's equipment and equipment of BellSouth. BellSouth may conduct an inspection if Hyperion adds equipment and may otherwise conduct routine inspections at reasonable intervals mutually agreed upon by the Parties. BellSouth shall provide Hyperion with a minimum of forty-eight (48) hours or two (2) business days, whichever is greater, advance notice of all such inspections. All costs of such inspection shall be borne by BellSouth.

## **9. SECURITY.**

9.1 Only BellSouth employees, BellSouth certified vendors and authorized employees or agents of Hyperion will be permitted in the BellSouth Central Office. Hyperion shall provide its employees and agents with picture identification which must be worn and visible at all times while in the Collocation Space or other areas in or around the Central Office. BellSouth may refuse entry to any person who fails to display the identification required by this section.

## **10. DESTRUCTION OF COLLOCATION SPACE.**

10.1 - In the event a Collocation Space is wholly or partially damaged by fire, windstorm, tornado, flood or by similar causes to such an extent as to be rendered wholly unsuitable for Hyperion's permitted use hereunder, then either party may elect within ten (10) days after such damage, to terminate this Agreement, and if either party shall so elect, by giving the other written notice of termination, both parties shall stand released of and from further liability under the terms hereof. If the Collocation Space shall suffer only minor damage and shall not be rendered wholly unsuitable for Hyperion's permitted use, or is damaged and the option to terminate is not exercised by either party, BellSouth covenants and agrees to proceed promptly without expense to Hyperion, except for improvements not the property of BellSouth, to repair the damage. BellSouth shall have a reasonable time within which to rebuild or make any repairs, and such rebuilding and repairing shall be subject to delays caused by storms, shortages of labor and materials, government regulations, strikes, walkouts, and causes beyond the

control of BellSouth, which causes shall not be construed as limiting factors, but as exemplary only. Hyperion may, at its own expense, accelerate the rebuild of its collocated space and equipment provided however that a certified vendor is used and the necessary space preparation has been completed. Rebuild of equipment must be performed by a BellSouth Certified Vendor. If Hyperion's acceleration of the project increases the cost of the project, then those additional charges will be incurred by Hyperion. Where allowed and where practical, Hyperion may erect a temporary facility while BellSouth rebuilds or makes repairs. In all cases where the Collocation Space shall be rebuilt or repaired, Hyperion shall be entitled to an equitable abatement of rent and other charges, depending upon the unsuitability of the Collocation Space for Hyperion's permitted use, until such Collocation Space is fully repaired and restored and Hyperion's equipment installed therein (but in no event later than thirty (30) days after the Collocation Space is fully repaired and restored).

**11. EMINENT DOMAIN**

11.1 If the whole of a Collocation Space shall be taken by any public authority under the power of eminent domain, then this Agreement shall terminate as of the day possession shall be taken by such public authority and rent and other charges for the Collocation Space shall be paid up to that day with proportionate refund by BellSouth of such rent and charges as may have been paid in advance for a period subsequent to the date of the taking. If any part of the Collocation Space shall be taken under eminent domain, BellSouth and Hyperion shall each have the right to terminate this Agreement and declare the same null and void, by written notice of such intention to the other party within ten (10) days after such taking.

**12. NONEXCLUSIVITY**

12.1 Hyperion understands that this Agreement is not exclusive and that BellSouth may enter into similar agreements with other parties. Assignment of space pursuant to all such agreements shall be determined by space availability and made on a first come, first served basis.

**13. NOTICES**

13.1 Except as otherwise provided herein, any notices or demands that are required by law or under the terms of this Agreement shall be given or made by Hyperion or BellSouth in writing and shall be given by hand delivery, or by certified or registered mail, and addressed to the parties as follows:

To BellSouth:

\_\_\_\_\_

To Hyperion:

\_\_\_\_\_

**Exhibit A**

Attachment C-13

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ATTN: \_\_\_\_\_

ATTN: \_\_\_\_\_

13.2 Such notices shall be deemed to have been given in the case of certified or registered mail when deposited in the United States mail with postage prepaid.

## Schedule of Rates and Charges

<u>Rate Element Description</u>	<u>Type of Charge</u>	<u>Charge</u>
Application Fee	NRC (per Arrangement, per C.O.)	\$3,850.00
Subsequent Application Fee (Note 1) No greater than \$1,600.00	NRC (per Arrangement, per C.O.)	ICB
Space Preparation Fee (Note 2)	NRC (per Arrangement, per C.O.)	ICB
Space Enclosure Construction Fee (Note 2)	NRC (per Arrangement, per C.O.)	\$4,500.00
Additional Engineering Fee (Note 3)	NRC	ICB
Cable Installation	NRC (per entrance cable)	\$2,750.00
Floor Space	RC (per square foot)	\$7.50
Power	RC (per amp)	\$5.00
Cable Support structure	RC (per entrance cable)	\$13.35
Cross-Connects		
2-wire	RC (per cross-connect)	\$0.30
4-wire	RC (per cross-connect)	\$0.50
DS1	RC (per cross-connect)	\$8.00
DS3	RC (per cross-connect)	\$72.00
2-wire	NRC (first cross-connect)	\$19.20
4-wire	NRC (first cross-connect)	\$19.20
DS1	NRC (first cross-connect)	\$155.00
DS3	NRC (first cross-connect)	\$155.00
2-wire	NRC (each additional cross-connect)	\$19.20
4-wire	NRC (each additional cross-connect)	\$19.20
DS1	NRC (each additional cross-connect)	\$27.00
DS3	NRC (each additional cross-connect)	\$27.00
POT Bay		
2-wire	RC (per cross-connect)	\$0.40
4-wire	RC (per cross-connect)	\$1.20
DS1	RC (per cross-connect)	\$1.20
DS3	RC (per cross-connect)	\$8.00
Additional Security Access Cards	NRC-ICB (each)	\$10.00

## Schedule of Rates and Charges (cont.)

<u>Rate Element Description</u>	<u>Type of Charge</u>	<u>Charge</u>
Direct Connection (Note 4)		
(1) Fiber Arrangement	RC (per cable, per linear foot)	\$0.06
-with Initial Application	NRC (per Arrangement)	N/A
-Subsequent to Application	NRC (per Arrangement)	\$246.00
(2) Copper or Coaxial Arrangement	RC (per cable, per linear foot)	\$0.03
-with Initial Application	NRC (per Arrangement)	N/A
-Subsequent to Application	NRC (per Arrangement)	\$246.00
Security Escort		
Basic - first half hour	NRC-ICB	\$41.00
Overtime - first half hour	NRC-ICB	\$48.00
Premium - first half hour	NRC-ICB	\$55.00
Basic - additional half hour	NRC-ICB	\$25.00
Overtime - additional half hour	NRC-ICB	\$30.00
Premium - additional half hour	NRC-ICB	\$35.00

### Notes

NRC: Non-recurring Charge - one-time charge  
 RC: Recurring Charge - charged monthly  
 ICB: Individual Case Basis - one-time charge

- (1) Subsequent Application Fee. BellSouth requires the submission of an Application Fee for modifications to an existing arrangement. However, when the modifications do not require BellSouth to expend capital, BellSouth will assess the Subsequent Application Fee in lieu of the Application Fee. Proposed modifications that could result in assessment of a Subsequent Application Fee would cause BellSouth to analyze the following but are not limited to: floor loading changes, changes to HVAC requirements, power requirement changes which may result in a power plant upgrade, environmental or safety requirements, or equipment relocation.
- (2) Space Preparation Fee. The Space Preparation Fee is a one-time fee, assessed per arrangement, per location. It recovers costs associated with the shared physical collocation area within a central office, which include survey, engineering, design and building modification costs. BellSouth will pro rate the total shared space preparation costs among the collocators at each location based on the amount of square footage occupied by each collocator. This charge may vary depending on the location and the type of arrangement requested.

**Schedule of Rates and Charges (cont.)****Notes (cont.)**

- (2) (cont.)  
Space Enclosure Construction Fee. The Space Enclosure Construction Fee is a one-time fee, assessed per enclosure, per location. It recovers costs associated with providing an optional equipment arrangement enclosure, which include architectural and engineering fees, materials, and installation costs. This fee is assessed in fifty (50) square-foot increments, with a minimum space enclosure size of one hundred (100) square feet. Hyperion may, at its option, arrange with a BellSouth certified contractor to construct the space enclosure in accordance with BellSouth's guidelines and specifications. In this event, the contractor shall directly bill Hyperion for the space enclosure, and this fee shall not be applicable.
- (3) Additional Engineering Fee. BellSouth's engineering and other labor costs associated with establishing the Physical Collocation Arrangement shall be recovered as Additional Engineering charges, under provisions in BellSouth's FCC Number 1 Tariff, Sections 13.1 and 13.2. An estimate of the additional Engineering charges shall be provided by BellSouth in the Application Response.
- (4) Direct Connection. As stated in Article I.B of the Collocation Agreement, Hyperion may connect to other Hyperion within the designated Central Office in addition to, and not in lieu of, interconnection to BellSouth services and facilities. Hyperion must use its Certified Vendor to place the direct connection. The Direct Connection NRC is assessed when direct connection is the only work requested by Hyperion. If any other work in addition to the direct connection is being requested, whether for an initial installation of a Collocation Space or for an augmentation to an existing Collocation Space, an Application Fee or a Subsequent Application Fee will be assessed in lieu of the Direct Connection NRC. Construction charges may also apply; BellSouth shall provide an estimate of these charges in the Application Response.



**Bona Fide Physical Collocation Arrangements**

**Central Office Name:**  
**Central Office CLLI Code:**  
**City:**  
**State:**  
**Date of Bona Fide Firm Order:**

**Central Office Name:**  
**Central Office CLLI Code:**  
**City:**  
**State:**  
**Date of Bona Fide Firm Order:**

**Central Office Name:**  
**Central Office CLLI Code:**  
**City:**  
**State:**  
**Date of Bona Fide Firm Order:**

**Central Office Name:**  
**Central Office CLLI Code:**  
**City:**  
**State:**  
**Date of Bona Fide Firm Order:**

**Central Office Name:**  
**Central Office CLLI Code:**  
**City:**  
**State:**  
**Date of Bona Fide Firm Order:**

## ENVIRONMENTAL AND SAFETY PRINCIPLES

The following principles provide basic guidance on environmental and safety issues when applying for and establishing Physical Collocation arrangements.

### 1. GENERAL PRINCIPLES

1.1 Compliance with Applicable Law. BellSouth and Hyperion agree to comply with applicable federal, state, and local environmental and safety laws and regulations including U.S. Environmental Protection Agency (USEPA) regulations issued under the Clean Air Act (CAA), Clean Water Act (CWA), Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Superfund Amendments and Reauthorization Act (SARA), the Toxic Substances Control Act (TSCA), and OSHA regulations issued under the Occupational Safety and Health Act of 1970, as amended and NFPA and National Electrical Codes (NEC) and the NESC ("Applicable Laws"). Each party shall notify the other if compliance inspections are conducted by regulatory agencies and/or citations are issued that relate to any aspect of this agreement.

1.2 Notice. BellSouth and Hyperion shall provide notice to the other, including Material Safety Data Sheets (MSDSs), of known and recognized physical hazards or Hazardous Chemicals existing on site or brought on site. Each party is required to provide specific notice for known potential Imminent Danger conditions. Hyperion should contact 1-800-743-6737 for BellSouth MSDS sheets.

1.3 Practices/Procedures. BellSouth may make available additional environmental control procedures for Hyperion to follow when working at a BellSouth Premises (See Section 2, below). These practices/procedures will represent the regular work practices required to be followed by the employees and contractors of BellSouth for environmental protection. Hyperion will require its contractors, agents and others accessing the BellSouth Premises to comply with these practices. Section 2 lists the Environmental categories where BST practices should be followed by CLEC when operating in the BellSouth Premises.

1.4 Environmental and Safety Inspections. BellSouth reserves the right to inspect the Hyperion space with proper notification. BellSouth reserves the right to stop any Hyperion work operation that imposes Imminent Danger to the environment, employees or other persons in the area or Facility.

1.5 Hazardous Materials Brought On Site. Any hazardous materials brought into, used, stored or abandoned at the BellSouth Premises by Hyperion are owned by Hyperion. Hyperion will indemnify BellSouth for claims, lawsuits or damages to persons or property caused by these materials. Without prior written BellSouth approval, no substantial new safety or environmental hazards can be created by

Hyperion or different hazardous materials used by Hyperion at BellSouth Facility. Hyperion must demonstrate adequate emergency response capabilities for its materials used or remaining at the BellSouth Facility.

1.6 Spills and Releases. When contamination is discovered at a BellSouth Premises, the party discovering the condition must notify BellSouth. All Spills or Releases of regulated materials will immediately be reported by Hyperion to BellSouth.

1.7 Coordinated Environmental Plans and Permits. BellSouth and Hyperion will coordinate plans, permits or information required to be submitted to government agencies, such as emergency response plans, spill prevention control and countermeasures (SPCC) plans and community reporting. If fees are associated with filing, BellSouth and Hyperion will develop a cost sharing procedure. If BellSouth's permit or EPA identification number must be used, Hyperion must comply with all of BellSouth's permit conditions and environmental processes, including environmental "best management practices (BMP)" (see Section 2, below) and/or selection of BST disposition vendors and disposal sites.

1.8 Environmental and Safety Indemnification. BellSouth and Hyperion shall indemnify, defend and hold harmless the other party from and against any claims (including, without limitation, third-party claims for personal injury or death or real or personal property damage), judgments, damages, (including direct and indirect damages, and punitive damages), penalties, fines, forfeitures, costs, liabilities, interest and losses arising in connection with the violation or alleged violation of any Applicable Law or contractual obligation or the presence or alleged presence of contamination arising out of the acts or omissions of the indemnifying party, its agents, contractors, or employees concerning its operations at the Facility.

## **2. CATEGORIES FOR CONSIDERATION OF ENVIRONMENTAL ISSUES**

When performing functions that fall under the following Environmental categories on BellSouth's premises, Hyperion agrees to comply with the applicable sections of the current issue of BellSouth's Environmental and Safety Methods and Procedures (M&Ps), incorporated herein by this reference. Hyperion further agrees to cooperate with BellSouth to ensure that Hyperion's employees, agents, and/or subcontractors are knowledgeable of and satisfy those provisions of BellSouth's Environmental M&Ps which apply to the specific Environmental function being performed by Hyperion, its employees, agents and/or subcontractors.

The most current version of reference documentation must be requested from BellSouth.

2. Categories for Consideration of Environmental Issues (cont.)

ENVIRONMENTAL CATEGORIES	ENVIRONMENTAL ISSUES	ADDRESSED BY THE FOLLOWING DOCUMENTATION
Disposal of hazardous material or other regulated material (e.g., batteries, fluorescent tubes, solvents & cleaning materials)	Pollution liability insurance  EVET approval of contractor	Std T&C 450 GU-BTEN-001BT, Chapter 4 Std T&C 660-3 GU-BTEN-001BT, Chapter 10
Emergency response	Hazmat/waste release/spill firesafety emergency	GU-BTEN-001BT, Chapter Building Emergency Operations Plan (EOP) (specific to central office)
Contract labor/outsourcing for services with environmental implications to be performed on BellSouth premises (e.g., disposition of hazardous material/waste;- maintenance of storage tanks)	Performance of services in accordance with BST's environmental M&Ps  Insurance	Std T&C 450 Std T&C 450-B (Contact E/S or your DEC/LDEC for copy of appropriate E/S M&Ps.) Std T&C 660
Transportation of hazardous material	Pollution liability insurance  EVET approval of contractor	Std T&C 450 GU-BTEN-001BT, Chapter 4 Std T&C 660-3 GU-BTEN-001BT, Chapter 10
Maintenance/operations work which may produce	Protection of BST employees and equipment	Std T&C 450 GU-BTEN-001BT, Chapter

a waste Other maintenance work		10 29CFR 1910.147 29CFR 1910 Subpart O
Janitorial services	All waste removal and disposal must conform to all applicable federal, state and local regulations  All HazMat & Waste Asbestos notification protection of BST employees and equipment	P&SM Manager - Procurement GU-BTEN-001BT, Chapter 4, GU-BTEN-001BT, Chapter 3 BSP 010-170-001BS (Hazcom)
Manhole cleaning	Pollution liability insurance  Manhole entry requirements  EVET approval of contractor	Std T&C 450 Std T&C 660-3 BSP 620-145-011PR Issue A, August 1996 GU-BTEN-001BT, Chapter 10 RL9706008BT
Removing or disturbing building materials that may contain asbestos	Asbestos work practices	GU-BTEN-001BT, Chapter 3

**3. DEFINITIONS**

Generator. Under RCRA, the person whose act produces a Hazardous Waste, as defined in 40 CFR 261, or whose act first causes a Hazardous Waste to become subject to regulation. The Generator is legally responsible for the proper management and disposal of Hazardous Wastes in accordance with regulations.

Hazardous Chemical. As defined in the U.S. Occupational Safety and Health (OSHA) hazard communication standard (29 CFR 1910.1200), any chemical which is a health hazard or physical hazard.

Hazardous Waste. As defined in section 1004 of RCRA.

Imminent Danger. Any conditions or practices at a facility which are such that a danger exists which could reasonably be expected to cause immediate death or serious harm to people or immediate significant damage to the environment or natural resources.

Spill or Release. As defined in Section 101 of CERCLA.

**4. ACRONYMS**

DEC/LDEC - Department Environmental Coordinator/Local Department Environmental Coordinator

GU-BTEN-001BT - BellSouth Environmental Methods and Procedures

EVET - Environmental Vendor Evaluation Team

P&SM - Property & Services Management

Std. T&C - Standard Terms & Conditions

NESC - National Electrical Safety Codes

Service: Virtual Collocation

Description: Virtual Expanded Interconnection Service (VEIS) provides for location interconnection in collocator-provided/BellSouth leased fiber optic facilities to BellSouth's switched access services, and local interconnection facilities

Rates, Terms and  
Conditions:

With the exception of the prices below, all rates, terms and conditions will be applied as set forth in Section 20 of BellSouth Telecommunication, Inc.'s Interstate Access Service Tariff, FCC No. 1.

**VIRTUAL COLLOCATION**  
**(all prices are interim at this time)**

Cross-Connects	
2-Wire Analog, Per Month	\$0.30
NRC (first cross connect)	\$19.20
4-Wire Analog, Per Month	\$0.50
NRC (first cross connect)	\$19.20